



## Costs Decision

Hearing Held on 2 October 2018

Site visit made on 2 October 2018

**by Tim Wood BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26<sup>th</sup> October 2018**

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### **Costs application in relation to Appeal Ref: APP/X1925/W/17/3192151 Land at Station Road, Ashwell, Herts**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Beck Homes (UK) Ltd for a full award of costs against North Hertfordshire District Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for 46 dwellings, children's play area, two sports pitches, pavilion and associated infrastructure.
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### **Decision**

1. The application for costs is refused.

### **The submissions for the appellant**

2. The appellant submitted the claim for costs in writing. In summary, this relates to the actions of the Council when determining the planning application. It is alleged that the lack of engagement has meant that issues which could have been resolved, have not been. It is also stated that the Council failed to recognise the changes to the proposal when compared to a pre-application scheme which had been the subject of consultation with them. In addition, the Council relied on the County Council's view on school places without relevant figures being provided.

### **The response by The Council**

3. The Council's pre-application advice was clear that such a proposal would be likely to be resisted by the Council, as a matter of principle. In summary, the points raised relate to a matter of a difference of planning judgement and do not amount to unreasonable behaviour.

### **Reasons**

4. The national Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. It is clear that the appellant engaged in considerable pre-application discussions with the local community, which included gaining the response of

the Council's officers. It is also clear that a number of significant revisions were made to the scheme before it was eventually submitted to the Council. Taking account of the response given by the Council, I consider that they cannot be criticised for having not made a meaningful response, at this stage. Their comments included matters of detail and also related to the principle of development in this location. My reading of their response gives me the clear impression that the Council officers would be likely to object to the principle of such a development here, notwithstanding any matters of detail. Therefore, in relation to this matter, I find no unreasonable behaviour.

6. Some matters which were included with the reasons for refusal had subsequently been resolved by the time of the Hearing. These related to archaeology, a mechanism to provide affordable housing, noise and the loss of agricultural land. Whether or not the Council could have sought to resolve these matters or not prior to its decision, the appeal would not have been avoided as other fundamental objections were raised and so the appeal would still have been necessary. Furthermore, the nature and amount of work that the appellant would have to do would have been the same whether done during the life of the application or, as was the case, done during the appeal process. Therefore, I find that there was no additional or wasted expense involved for the appellant.
7. With regards to the evidence about school places, some figures about in-flow were produced at the Hearing and both main parties maintained their respective positions. This merely demonstrates that firstly, the presence of figures would not have changed the arguments and secondly that it is a matter of one judgement against another. Therefore, whilst early presentation of figures may have given more clarity, it would have made no difference to the process and so there has been no additional work or expense involved in this matter.
8. I appreciate that this case has involved a planning balance of various issues and that some issues initially raised have been resolved. Nevertheless, the Council has maintained its position that the harm would outweigh the benefits of the scheme, even in the light of the matters subsequently resolved. I find no unreasonable behaviour in this stance.
9. In the light of my findings, I conclude that there has been no unreasonable behaviour by the Council and its actions have not resulted in any additional or wasted work and expense as those matters referred to would have been necessary in any event. Consequently, the application for an award of costs is refused.

*S T Wood*

INSPECTOR